

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ROBERT W. GORDON,

Plaintiff,

-against-

WILSON ELSER MOSKOWITZ EDELMAN & DICKER  
LLP, RORY L. LUBIN, STUART MILLER, and JOHN  
and JANE DOE (said names being fictitious, the persons  
intended being those who aided and abetted the unlawful  
conduct of the named Defendants).

Defendants.

X

: Case No.:  
1:22-CV-05212-JPC-JW

:  
**DECLARATION OF**  
**JOHN M. FLANNERY IN**  
**SUPPORT OF DEFENDANTS'**  
**MOTION TO DISMISS**

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JOHN M. FLANNERY, an attorney duly admitted to practice law before the courts of the State of New York and United States District Court for the Southern District of New York, hereby declares pursuant to 28 U.S.C. §1745, and under penalty of perjury, as follows:

1. I am a member of the law firm of Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, attorney for Defendants, WILSON ELSER MOSKOWITZ EDELMAN & DICKER LLP, RORY L. LUBIN and STUART MILLER (hereinafter referred to collectively as "Wilson Elser"), in this action.

2. I submit this declaration in support of the Defendants' motion pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure and Section 4 of the Federal Arbitration Act, 9 U.S.C. §4, dismissing this action and compelling the parties to arbitrate the disputes raised by the complaint herein or, in the alternative, to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failing to state a claim upon which relief can be granted; and for such other, further or different relief as the Court in its discretion may deem just and proper.

3. I have knowledge of the facts set forth below based upon my review of the Court's file and the file maintained by this firm.

**EXHIBITS**

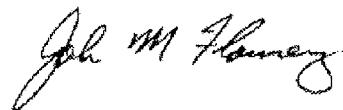
4. Attached hereto as **Exhibit "A"** is a true and accurate copy of Plaintiff's "Of Counsel" employment agreement with Wilson Elser.

5. Attached hereto as **Exhibit "B"** is a true and accurate copy of the November 8, 2018 letter from Plaintiff's neuropsychologists to Wilson Elser. This Court previously ruled that the letter in Exhibit B may be filed under seal. DE#23 (July 25, 2022).

6. Attached hereto as **Exhibit "C"** is a true and accurate copy of Wilson Elser's Notice of Intention to Arbitrate dated July 13, 2022.

WHEREFORE, for the reasons set forth in the annexed exhibits and in the accompanying memorandum of law, dated August 29, 2022, Wilson Elser's motion should be granted in its entirety, this case should be dismissed, and the Court should issue an Order compelling the parties to arbitrate. In the alternative, Gordon's claims under the FMLA, NYSHRL and NYCHRL should be dismissed as barred by the applicable statutes of limitations, and Gordon's claims under the FMLA and NYCHRL should be dismissed for failing to state a claim upon which relief may be granted.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29<sup>th</sup> day of August, 2022.



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John M. Flannery, Esq.